

VZCZCXRO2457
RR RUEHCHI RUEHDT RUEHHM RUEHNH
DE RUEHJA #1396/01 2030924
ZNR UUUUU ZZH
R 210924Z JUL 08
FM AMEMBASSY JAKARTA
TO RUEHC/SECSTATE WASHDC 9593
INFO RUCPDOG/USDOC WASHDC 1522
RUCNASE/ASEAN MEMBER COLLECTIVE
RUEATRS/DEPT OF TREASURY WASHDC
RUEAWJB/DEPT OF JUSTICE WASHDC
RHEHNSC/NSC WASHDC
RUEAIIA/CIA WASHDC
RUEHKO/AMEMBASSY TOKYO 2256
RUEHBY/AMEMBASSY CANBERRA 2801
RUEHUL/AMEMBASSY SEOUL 4758
RUEHBJ/AMEMBASSY BEIJING 5225
RUEHBUL/AMEMBASSY KABUL 0050
RUCNDT/USMISSION USUN NEW YORK 0927

UNCLAS SECTION 01 OF 05 JAKARTA 001396

SENSITIVE
SIPDIS

DEPARTMENT FOR EAP/MTS, EEB/ESC/TFS, EAP/RSP, INL, S/CT,IO/UNP
TREASURY FOR MNUGENT, PDERGARABEDIAN
COMMERCE FOR 4430 BERLINGUETTE
JUSTICE/AFMLS FOR L. SAMUEL
DEPARTMENT PASS FEDERAL RESERVE SAN FRANCISCO FOR FINEMAN

E.O. 12958: N/A

TAGS: [EFIN](#) [ECON](#) [ETRD](#) [EINV](#) [PGOV](#) [PREL](#) [KCRM](#) [KTFN](#) [KCOR](#) [ID](#) [MY](#)
SN, TH, VM, PS, BU, CA, HK, XB

SUBJECT: SE Asian Hot Topics at Regional AML-CFT Meetings

11. (SBU) The annual meetings of the regional Asia Pacific Group on Money Laundering (APG), held in Bali July 7 to 11, helped highlight the challenges facing Southeast Asian countries and clarify many acute training needs. The APG discussed and adopted three joint Mutual Evaluation Reports (MERs) on Canada, Singapore and Hong Kong which were conducted with the Financial Action Task Force (FATF). The APG also discussed and adopted the MERs on Burma, Indonesia and the IMF assessment of Palau. These reports provide a snapshot and assessment of each jurisdiction's anti-money laundering and counter-financing of terrorism (AML-CFT) systems. While Singapore's discussion revolved around predictable complaints on mutual legal assistance, Indonesia's MER discussion was quite contentious as Indonesia tried to negotiate up its ratings on six of its sixteen "non-compliant" ratings. While ASEAN members supported an upgrade to "partially compliant" on customer due diligence standards, Indonesia was unsuccessful in convincing the APG plenary to improve their marks on the standards related to the ratification and implementation of UN instruments, international cooperation on terrorist financing, mutual legal assistance and extradition. Vietnam's first on-site mutual evaluation visit will take place during the first two weeks of November 2008. End Summary.

Singapore

12. (U) The review of Singapore's Joint FATF-APG Mutual Evaluation Report (MER) was uneventful. The MER had already been approved by the FATF Plenary in February, so this was a rather pro-forma discussion. Singapore received a favorable assessment and, in fact, has one of the best assessments out of all FATF members. Singapore received a rating of either Compliant (C) or Largely Compliant (LC) on 43 of the Recommendations and received ratings of either Partially Complaint (PC) or Non-Compliant (NC) on only six of the recommendations. Singapore received a PC rating on Recommendation 1 regarding the criminalization of money laundering. The members of the evaluation team emphasized that key risks to Singapore stemmed from regional capital flight/money laundering as a product of uncertainty and/or corruption and terrorism in the region. They noted that it was precisely because Singapore's deep financial markets and developed banking system worked efficiently that people were attracted to the market as a location for money laundering (ML)

and terrorism finance (TF). The evaluation team also raised questions about the low number of convictions for money laundering, despite recent improvements. There were 13 convictions for ML in 2007 ---exceeding the previous three years rate of 2 annual convictions --- but this was still considered low by the evaluators.

¶3. (SBU) Most of the questions in the discussion revolved around difficulties with Singapore's mutual legal assistance. Indonesia asked a question about Singapore's inability to assist in investigations. However, Indonesian officials privately told the evaluation team that, in fact, they had not ever made a formal request to Singapore for assistance with an AML-CFT case. Evaluators therefore were unable to cite any specific examples of non-cooperation, since there had been no requests.

¶4. (U) Going forward, Singapore emphasized that it would continue to work on implementing its new cash declaration scheme, supervising Designated Non-Financial Businesses and Professions (DNFBPs), such as lawyers, accountants and trust company service providers, and the opening up of the casinos. Mr. Ong Hian Sun of Singapore's Commercial Affairs Department was appointed as co-chair of the APG for 2008-2010.

¶5. (SBU) Outside of the MER discussions, Singaporean officials revealed two interesting, and refreshingly honest, assessments of the risks and shortcomings of their own system. In a discussion on risk-based approaches to supervision, the Monetary Authority of Singapore's (MAS) Kristel Poh stated that Singapore's private banking industry is a "high risk area" and that Singapore needed to pay more attention to customers from risky countries, including

JAKARTA 00001396 002 OF 005

those identified by FATF's Non-Compliant Countries and Territories (NCCT) list and the UN Sanctions lists. (The NCCT list is defunct and is no longer maintained.) In a private discussion with SE Asia regional FINATT about the division of labor in AML-CFT issues in Singapore, MAS's Head of External Relations Mr. Leong Sing Cheong admitted that if Singapore's Financial Intelligence Unit (FIU) had been housed at the Monetary Authority that financial institutions would not have taken it seriously. Leong confided that because the Commercial Affairs Department (CAD) "had real teeth" in Singapore, banks (and others) had a strong incentive to comply with rules on suspicious transaction reports (STRs).

Vietnam

¶6. (U) Vietnam noted its technical training priorities were:

--- Preparing for its upcoming APG on-site Mutual Evaluation (ME) visit scheduled the first two weeks of November 2008. The State Bank of Vietnam (SBV) FIU officials reported that they were giving 6 courses in September to explain the ME process to various agencies and financial institutions in Hanoi and Ho Chi Minh City. They asked for experts to be included in these programs, and particularly asked Malaysia if they would be willing to send anyone, highlighting a specific need for help in training in identifying suspicious activities and analyzing STRs.

--- Developing a system for inspections of financial institutions for AML-CFT compliance. They felt they needed to institutionalize current guidance from the SBV on how to screen against the UNSCR 1267 consolidated list in order to give this requirement the force of law. They also wanted to get training for their banking supervisors.

--- Expanding coverage of STR-reporting requirements and implementation to the securities and insurance industries.

--- Understanding and examining practical cases from other countries on how to address AML-CFT issues in high-cash economies, such as Vietnam.

¶7. (U) Donors raised concerns about Vietnam's lack of information technology (IT) systems to deal with AML-CFT issues and receive

STRs. The Asian Development Bank (ADB) representative said that no training would proceed until SBV had a functioning IT system. AUSTRAC (Australia's FIU) was supposed to be providing an IT needs assessment, but it was still being finalized (expected within a month). The Vietnamese noted that the FIU had contracted a local consultant to evaluate its IT needs and if the United Nation's software would be appropriate. The UN advisors mentioned that they had sent detailed parameters to SBV for system specifications to start moving forward on IT solutions, but had not heard back.

Malaysia

¶18. (U) Bank Negara's FIU team was clearly stars of the annual meetings. They were involved in donor coordination meetings for ASEAN and the Mekong region (see below). Malaysia also discussed training cooperation for Afghanistan's FIU with US Treasury representatives. In its very thorough and well-received progress report on items in Malaysia's action plan to address shortcomings from its 2007 MER, Malaysia noted that the policy decision to move ahead with a cash declaration system (similar to Singapore's) had been made and was expected to be implemented next year.

¶19. (U) In the U.S. update on measures since our 2006 MER, Malaysia asked the U.S. delegation about progress in expanding AML-CFT regulations to include Designated Non-Financial Businesses and Professions (DNFBPs), especially trust company service providers, attorneys, and accountants. The head of the U.S. delegation gave an update and noted the ongoing difficulty in requiring attorneys to

JAKARTA 00001396 003 OF 005

file mandatory STRs due to attorney-client privilege issues.

Thailand

¶10. (U) Thailand provided a quick update on its AML-CFT work. Canada asked if Thailand had increased the scope of its predicate offenses (i.e. underlying criminal offenses that may give rise to a money laundering charge). Thailand noted that they had included gambling, smuggling and election violations as predicate offenses. They also amended the penal code to criminalize terrorist financing.

Indonesia

¶11. (SBU) The discussion of Indonesia's MER was the most contentious of the entire week. Indonesia was clearly upset at the large number of "non-compliant" ratings. Indonesia engaged in a last minute lobbying effort to improve its ratings on many items. Treasury Senior Advisor Paul DerGarabedian served as one of the expert examiners. This on-site assessment took place from October 29 to November 9, 2007. Prior to the plenary discussion, the assessment team had extensive face-to-face meetings during the weekend with the Indonesian authorities to finalize the draft MER. In some cases, Indonesia provided the necessary documentation and explanation which led to an upgrade on three of the ratings and ensured that the report was accurate and objective. However, many of the arguments made were politically motivated or not based on technical facts. During the plenary discussion the Indonesian delegation requested rating upgrades on six recommendations. Many members rallied around Singapore, Thailand and Fiji's support to upgrade the rating on Recommendation 5 regarding customer due diligence from a non-compliant to a partially compliant, basing their support on a technical argument about the enforceability of central bank guidance to banks.

¶12. (SBU) Indonesia's other requests for upgrades were unsuccessful. For example, Indonesia argued that because the UN Secretariat had commended their work on the Security Council, they should merit a partially compliant rating for implementing the UNSCR 1267 and 1373, even though they have no effective system to freeze and seize terrorist assets without delay for entities on the UNSCR 1267 list. The New Zealand delegation articulately rebutted this assertion and stressed that good behavior in New York had and should have no

bearing whatsoever on the APG's assessments of implementation of effective AML-CFT systems. With regard to Indonesia's requests for upgrades on three areas of international cooperation, the legal assessor countered that while Indonesian officials could assert their willingness to confiscate and freeze assets as requested by international authorities, in fact, Indonesia had no law enabling it to do so and had never actually done so in the past. Other countries further noted that mutual legal assistance could only be rendered for a crime that was a crime in both countries ("dual criminality") which would make international legal assistance impossible in many cases, especially given the narrow scope and short statutes of limitations in many Indonesian laws.

¶13. (U) In summary, the Indonesian MER identified some progress since being removed from the NCCT list in strengthening preventative measures to combat money laundering. However, it noted a serious lack of compliance with the CFT-related recommendations. The report notes that despite effective actions to prosecute the terrorism offense (300 convictions), authorities had not used the terrorism financing (TF) offense to investigate and prosecute TF related to known and identified terrorists groups in Indonesia effectively. (Indonesia has had only one TF conviction). The report also highlighted the lack of effective regulations on a range of entities including: the charities sector, wire transfers/remittance providers, foreign financial institutions in Indonesia, Indonesian financial institutions operating overseas, correspondent banks and business introduced by third parties,

JAKARTA 00001396 004 OF 005

securities companies, and DNFBPs. In some cases, the law is adequate but necessary infrastructure has not been put in place. For example, corporate entities can be held liable under the law, but there is no enforcement of the requirement to keep records on the beneficial owners of the companies in order to apply the law. Systems for enhanced due diligence on politically exposed persons were also weak, a disturbing omission in a country with wide-spread corruption problems. The Indonesia MER will be finalized and published on the APG's website at <http://www.apgml.org>.

¶14. (U) The MER contains an 8-page recommended action plan to improve Indonesia's AML-CFT system. Under the APG process, Indonesia now must develop its own action plan, and report on progress against that action plan in subsequent annual APG meetings. In donor coordination meetings, Indonesian representatives asked for assistance in developing their own effective asset forfeiture and seizure system, which would help them implement their UN obligations. Specifically, they requested a review of different country's systems for implementing this requirement so as to inform their own decisions. They also expressed interest in a risk-based policy framework for financial institutions supervision and training for the policy in money laundering investigations and analysis. They were also open to working on MLAT and extradition requests on a regional basis.

Regional Donor Issues

----- ASEAN -----

¶15. (SBU) In a regional meeting of ASEAN members, the ASEAN Secretariat's Dr. Aladdin Rillo noted that the AML-CFT work in their Senior Officials Meeting on Transnational Crime (SOMTC) program was "not working well," and that Malaysia, as the lead shepherd for that stream, should take a more forceful role. Malaysia punted back to the ASEAN Secretariat and the APG Secretariat on the need to do a region-wide stock-taking exercise on appropriate regional training programs for ASEAN.

¶16. (U) Various donors also outlined their regional training programs. Australia noted its work to set up FIU to FIU networking and mentoring (in a train-the-trainers format) and was happy to continue with regional workshops. They noted work on financial investigations and asset forfeiture and confiscation done primarily bilaterally through their Indonesian JASLIC office in Semarang, Indonesia, but could consider opening them up to the region, if any country had a specific interest. The World Bank offered to assist

anyone with on-site inspections of financial institutions, for example, in sample testing. The UK Charities Commission (UKCC) reported completing two regional workshops on Special Recommendation 8 (on the non-profit organization (NPO) sector). UKCC noted that Malaysia is the only ASEAN country that had completed a review of its regulations on the NPO sector, and UKCC stood ready to help, but could only provide their own time and travel, not the participants.

Mekong

¶17. (U) Efforts to work on technology seemed paramount in donors' minds. Cambodia clearly had a long way to go as it has yet to draft a proper Criminal Code. It planned to do so starting 60 days after the November 2008 election (i.e. in early 2009). Malaysia mentioned that it and the ADB were co-funding/organizing 3 workshops on an AML Plan for Cambodia. Lao PDR said they had received a total of 5 STRs, all of which came from banks. They currently lack an IT infrastructure. The French said they were providing an FIU software system to Lao PDR that had been used in francophone Africa. UNODC and Treasury's Office of Technical Assistance would continue providing training on Financial Investigation Techniques (FIT) in the Mekong region and also noted an August 18-22 FIU study tour to the Philippines.

JAKARTA 00001396 005 OF 005

Other APG Decisions

¶18. (U) Aside from the substantive discussions on Southeast Asia reported above, the APG made several important decisions on its future operations, including:

--- The formal appointment of a new rotating Co-Chair for the term 2008-2010, Mr. Ong Hian Sun of Singapore's Commercial Affairs Department;

--- Admission of the Maldives and East Timor as full members of the APG - the 37th and 38th members respectively;

--- Adoption of a new Strategic Implementation Planning Framework by the APG to assist low capacity jurisdictions to effectively respond to recommendations made in mutual evaluation reports;

--- Amendments to the APG's mutual evaluation procedures in relation to adoption of joint FATF/APG mutual evaluation reports to better reflect the APG's Associate Membership arrangements with the FATF. Changes were also made to the peer review mechanism to improve the quality and consistency of all APG reports.

¶19. (U) Further information on these decisions can be found on the APG website www.apgml.org.

¶20. (U) This cable was drafted by Finatt/Singapore and cleared with the head of the U.S. delegation to the APG. Any USG official with technical questions regarding the Indonesian MER or general APG matters may contact the U.S. Head of Delegation at Paul.Dergarabedian@do.treas.gov.

HUME